

**§ 286.8 Confidentiality of information.**

All information collected relative to an applicant during an evaluation is maintained as confidential. Information is released only as required under the terms of the Freedom of Information Act or other legal requirement, subject to the rules of the Department of Commerce for such disclosure as found in 15 CFR part 4.

**§ 286.9 Maintaining recognized status.**

Each program participant remaining in the program shall continuously meet all program requirements and cooperate with NIST in the conduct of all surveillance and reassessment activities. Participants shall reimburse NIST for expenses incurred for these purposes.

**§ 286.10 Appeal.**

Any applicant or other affected party may appeal to the NIST Director any action taken under the program. When appropriate, the Director may seek an independent review by the Deputy Chief Counsel.

**§ 286.11 Listings.**

(a) NIST maintains lists of all bodies holding current NIST program certificates, together with the assessment areas for which they are issued.

(b) NIST also maintains lists of those qualified conformity assessment bodies that are currently accredited by bodies recognized by NIST, along with the activities of the assessment bodies within the scope of the NIST recognition program.

(c) The lists are made available to the public through various media, e.g., printed directories, electronic bulletin boards, or other means to ensure accessibility by all potential users.

(d) With respect to the lists specified in paragraph (a) and (b) of this section, NIST may delist any body if it determines the action to be in the public interest.

**§ 286.12 Terminations.**

(a) *Voluntary termination.* Any participant may voluntarily terminate participation at any time by written notification to NIST.

(b) *Involuntary termination.* If a participant does not continue to meet all program requirements, or if NIST determines it to be necessary in the public interest, NIST may withdraw that participant's certificate. A body that has had its status as a certificate holder terminated may reapply when prepared to demonstrate full conformance with program requirements.

**PART 287—GUIDANCE ON FEDERAL CONFORMITY ASSESSMENT****Sec.**

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**AUTHORITY:** Sec. 12, Pub. L. 104-113, 110 Stat. 782 (15 U.S.C. 272).

**SOURCE:** 65 FR 48900, Aug. 10, 2000, unless otherwise noted.

**§ 287.1 Purpose and scope of this guidance.**

(a) This part provides guidance for each Federal agency to use in evaluating the efficacy and efficiency of its conformity assessment activities. Each agency should coordinate its conformity assessment activities with those of other appropriate government agencies and with those of the private sector to reduce unnecessary duplication. This guidance is intended to help Federal agencies improve the management and coordination of their own conformity assessment activities with respect to other government entities and the private sector. This will help ensure more productive use of the increasingly limited Federal resources available to conduct conformity assessment activities. This will also support the role of the U.S. Government in pursuing international trade and other related negotiations and agreements with foreign countries and U.S. industry in pursuing agreements with foreign national and international private sector organizations.

(b) This guidance applies to all agencies, which set policy for, manage, operate, or use conformity assessment activities and results, both domestic and

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international, except for activities carried out pursuant to treaties.

(c) This guidance does not preempt the agencies' authority and responsibility to make regulatory or procurement decisions authorized by statute or required to meet programmatic objectives and requirements. These decision-making activities include: determining the level of acceptable regulatory or procurement risk; setting the level of protection; balancing risk, cost and availability of technology (where statutes permit) in establishing regulatory and procurement objectives; and determining or implementing procurement or regulatory requirements necessary to meet programmatic or regulatory objectives. Each agency retains broad discretion in its selection and use of regulatory and procurement conformity assessment practices and may elect not to use or recognize alternative conformity assessment practices if the agency deems them to be inappropriate, inadequate, or inconsistent with statutory criteria or programmatic objectives and requirements. Nothing contained herein shall give any party any claim or cause of action against the Federal government or any agency thereof. Each agency remains responsible for representation of the agency's views on conformity assessment in matters under its jurisdiction. Each agency also remains the primary point of contact for information on the agency's regulatory and procurement conformity assessment actions.

### § 287.2 Definitions.<sup>1</sup>

*Accreditation* means a procedure used to provide formal notice that a body or person is competent to carry out specific tasks. These tasks include: sam-

<sup>1</sup>Definitions of accreditation, certification, conformity assessment, inspection, supplier's declaration of conformity, registration and testing are based on the International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC), Guide 2 (1996). In certain industrial sectors, it is recognized that organizations other than ISO or IEC may issue definitions relevant to conformity assessment, such as the Codex Alimentarius Commission with respect to the food industry sector.

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pling and testing; inspection; certification; and registration.<sup>2</sup>

*Agency* means any Executive Branch Department, independent commission, board, bureau, office, agency, government-owned or controlled corporation, or other establishment of the Federal government. It also includes any regulatory commission or board, except for independent regulatory commission subject to separate statutory requirements regarding policy setting, management, operation, and use of conformity assessment activities. It does not include the legislative or judicial branches of the Federal government.

*Agency Standards Executive* means an official designated by an agency as its representative on the Interagency Committee for Standards Policy (ICSP) and delegated the responsibility for agency implementation of OMB Circular A-119 and the guidance in this part.

*Certification* means a procedure used to provide written assurance that a product, process, service, or person's qualifications conforms to specified requirements.

*Conformity assessment* means any activity concerned with determining directly or indirectly that requirements are fulfilled. Requirements for products, services, systems, and organizations are those defined by law or regulation or by an agency in a procurement action. Conformity assessment includes: sampling and testing; inspection; supplier's declaration of conformity; certification; and quality and environmental management system assessment and registration. It also includes accreditation and recognition. Conformity assessment does not include mandatory administrative procedures (such as registration notification) for granting permission for a good or service to be produced, marketed, or used for a stated purpose or under stated conditions. Conformity assessment activities may be conducted by the supplier (first party) or by the buyer

<sup>2</sup>For some agencies, accreditation may mean that a body or person meets requirements defined in a specific section(s) of the CFR. The referenced section(s) may include only limited requirements for demonstration of technical competency.